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A N  
I N Q U I R Y  
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O R I G I N and L I M I T A T I O N S  
O F T H E  
Feudal Dignities of S C O T L A N D.



A N  
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O R I G I N and L I M I T A T I O N S  
O F T H E  
F E U D A L D I G N I T I E S  
O F  
S C O T L A N D.

By WILLIAM BORTHWICK, Esq;

——— *Genus unde Latinum,  
Albanique patres, atque altæ mœnia Romæ.*     Æn. i. 10.

*From whence the race of Alban fathers come,  
And the long glories of majestic Rome.*     Dryden.

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## To the PUBLIC.

THE following pages are intended to exhibit a view of the limitations of the ancient dignities of SCOTLAND. Perhaps some points set forth may be reckoned *new*; however, they are *so old*, and were once so well understood in Scotland, that they would have been easily comprehended by the most illiterate three hundred years ago. A tedious preface to a small treatise would be truly preposterous. The reader, it is hoped, will consider these pages with impartiality, and supercede forming any judgement on the subject until he makes a thorough search into those records from which the state of facts are taken.

*Crookstown, May 16. 1775.*



A N  
I N Q U I R Y  
I N T O

The Origin and Limitations of  
the FEUDAL DIGNITIES of  
SCOTLAND.

**N**O nation exceeds Scotland for the antiquity of its Noble families; at the same time the inhabitants of no country have been more unfortunate in the preservation of their ancient writings. The public records of Scotland now remaining, are vastly defective; and the private writings of the country, excepting a few in the hands of some individuals, are entirely lost. To ascertain when honours were first introduced into this country, and what families first enjoyed dignities, is therefore  
A impossible.

impossible. However, from such records and private-family documents as have escaped the ravages of time, it is possible to discover, that peerages have been enjoyed in Scotland at a very early period. From these remains of antiquity, too, we may discover the limitation of the succession to those ancient peerages.

As far back as peerages can be traced, they are territorial, founded upon a tract of land erected into a lordship or an earldom. A mere personal peerage, in the ancient history of Scotland, never was known. In England too, even so late as the 1500, we may observe, that when the Kings of that country thought proper to raise a person to the dignity of the peerage, they always granted something along with it; a thing as useful in life as a title. They allowed the peer either a portion of land, or a salary, to support the dignity of the peerage.

When the Kings of this country ennobled a person, they either granted a charter of erection of his land-estate into that rank which they meant the person to enjoy, as into a *comitatus*, or a *dominium*; or, in parliament, they girt him with a sword, declaring,

declaring, at the same time, the titles and rank which it was intended the party should enjoy. If the dignity was conferred by erection of the land-estate, the King mentioned in the charter by what style the new peer should be known. And it is observable, that after a family was once ennobled, although the King *de novo* erected the land-estate into a *dominium*, or a *comitatus*, yet he did not then recapitulate the titles of the family, nor express any right of sitting in parliament. These were unnecessary; because it was always understood, that the peerage and the estate were to descend to the same series of heirs. When a peer resigned his earldom or lordship in the King's hands, in favour of himself, and a certain series of "*heirs-male*," it was unnecessary that the King, in the new charter of the estate, should say, that the title of honour founded upon the land-estate was limited to *heirs-male*.

The earliest appearance of peers in Scotland is under the description of *Lord Barons*. But some of those families who originally enjoyed that rank of peerage in this country, having become extinct, and

others having been advanced to the rank of Earls, the present Lord Barons of this kingdom owe their nobility to a period much later than the Earls.

In the reign of Malcom III. Gospatrick Earl of Northumberland fled from England to avoid the resentment of the Conqueror, and took refuge with our King Malcom, who gave him the lands of Dunbar and Colbranspath in East Lothian. In the reign of David II. Patrick Dunbar resigned his estates of Dunbar and March in the King's hands; upon which the King granted a charter of the estate to George, the son of Patrick, "tenend. et habend. dicto Georgio Dunbar, et hæredibus suis, de nobis, &c. in unum integrum et liberum comitatum \*," &c.

George Dunbar was afterwards styled by King David, "Dilectus consanguineus noster Georgius, Comes Marchie †."

The family of Dunbar were promiscuously designed Earls of Dunbar, and of March.

In a parliament held at Scoone, 5th Fe-

\* Charter on record, b. 1. n. 196. an. reg. 39. 25th July.

† Charter, b. 1. N<sup>o</sup> 244. 8th February.



bruary 1283, the following peers and great men of the kingdom were present.

Patrick Earl of Dunbar,  
 Alexander Cummin Earl of Buchan,  
 Constable of Scotland,  
 Malice Earl of Strathern,  
 Malcolm Earl of Lennox,  
 Robert Bruce Earl of Carrick,  
 Donald Earl of Marr,  
 Gilbert Earl of Angus,  
 Walter Earl of Monteith,  
 William Earl of Ross,  
 William Earl of Sutherland,  
 Magnus Earl of ——— acin \*,  
 Duncan Earl of ——— †,  
 John Earl of Atholl.

These were all territorial peers. Their peerages were founded upon their dignified fiefs. They were all descendible to the persons who were the heirs of the investitures of their land-estates.

If any of those Lords died, the succeſ-

\* This imperfect word must be a mistake in the record. If I might be allowed a conjecture, I think it should have been "*Orcaden*." Magnus was the surname of the Earl of Orkney at this period.

† Earl Duncan of Fife must have been the person meant here.

sion to his honours was to be regulated by the rule of succession to his land-estate, upon which his titles were founded. If any of them died without issue, the peerage went along with their family-estate to the nearest heir of their investitures, whether that heir was descended from the body of the person first ennobled of the family or not. That peerages without limitation should be limited to the descendants of the person first ennobled, is an abuse too great to be offered to the common sense of mankind.

In Scotland it seldom happened, that the peer in possession wanted representation sprung from himself. Many adventitious circumstances concurred favourable to the peers of ancient times on this head. In a country where every species of luxury and extravagance was hated and detested, the old lord had no occasion to interest himself in the matrimonial connections of the son. The inconveniencies sensibly felt in modern times, of too many generations in the direct line, could not occur in those days: on the contrary, what would be disagreeable from these circumstances to us in modern times, afforded the

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the most comfortable reflections to our ancestors.

From these circumstances, a succession to a peerage rarely opened to any branch beyond the line of the descendants of the first peer. However, as no rank nor situation in life is exempt from common accidents, sometimes it happened, that there were no representatives descended from the first peer existing at the demise of the peer in possession. The question then arose, What became of the peerage? A previous question, however, must have been, “How stood the limitation of the earldom “or lordship which intitled the deceased “peer to sit and vote as a lord of parliament?”

If it appeared, that the *comitatus* or *dominium* held by the deceased peer *in libero comitatu*, or *in libero dominio*, was settled to heirs-male, then the person who under that character proved his propinquity, was acknowledged heir of the peerage, as well as heir of the land-estate.

If we turn our eyes towards our southern neighbours, we will observe, that with them ancient peerages were rarely limited :  
they

they most commonly went to the heir of the deceased.

From whence, then, have we received it as a rule, and as an infallible one too, that in Scotland peerages not constituted by patent are descendible only to the heir-male of the body of the person first ennobled? The question has never in modern times yet occurred, Whether or not a Scotch peerage without patent, can descend to collateral heirs beyond the issue of the person first ennobled? but the fact has several times occurred in Scotland. A person enjoying a land-estate limited to certain heirs-male, and a title of honour founded on that estate, has died without issue; and the land-estate, together with the peerage, has been taken up and enjoyed by the heir-male, though not sprung from the body of the first peer, without challenge or objection from any party having interest.

Since the union of the two kingdoms, from political motives, a number of people have been led to express extravagant notions with regard to the limitation of the peerages of Scotland. Opinions, too, have been propagated upon this subject,

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from

from motives of interest and envy. The present peers of any kingdom have an evident interest that their number should be *few*; the bulk of the commoners of a country are prejudiced against such individuals as set up pretensions to a *rank* which the body of the people can never arrive at; and the few individuals who would wish to form their judgement on the subject upon just principles, have it not in their power to know the facts upon which their opinion ought to be founded.

In the year 1221, when Alexander King of Scotland settled Jedworth-forest, Haffendean, and Lassuden, in Roxburghshire, on his consort Johanna, the sister of the King of England, there were two Earls witnesses to the deed of settlement;

Earl Patrick, and

William Cummin, Earl of Buchan, Justiciar of Scotland\*.

There are no other peers witnesses to this deed: so that the rank of Lord Barons is not discoverable from it. We are,

\* Original instrument in the tower of London, dated in 1221.

however, certain, that before this period there existed a peer of the Sutherland family, by the style of *William Lord Sutherland* \*.

The Earl Patrick here named must have been Earl of Dunbarre and March. He must have had an earldom, although it is not mentioned in this transaction. At a time when there were few Earls, they would be distinctly known by their Christian names, as Earl Gilbert, Earl Patrick, Earl Duncan, &c.

Those peerages founded on territory, always went to the heir of the territory, whether heir-male or heir-general.

From the defect of records, it is impossible to make up a correct list of the persons who enjoyed the rank of Earls in the twelfth and thirteenth centuries. The most full list of Earls is that which I have already mentioned at the parliament 1283. In several instruments relating to Scotland in the tower of London, downwards to the 1300, some few of those Earls present at Scoone are named.

\* Confirmation, dated in 1214, produced in the claim of the peerage of Sutherland.

I shall now go on to consider the other rank of peerage, the Barons.

It has hitherto been alledged by lawyers, and others who have had occasion to mention this order of peerage, that it had its rise in the reign of James I. of Scotland, who returned from England in 1424; and it has been set forth in law-papers, that this order of men were unknown in Scotland until the reign of that King.

There does not exist in the public records of Scotland any patent in King James's reign constituting any of the ancestors of our present Barons peers ; so that the lawyers of this country could not have discovered the origin of those peerages from record. From whence their origin can be discovered, I am yet to learn. I treat this point with very great diffidence ; and if I shall err, I will be proud, upon conviction of my mistakes, to confess them.

IN order to ascertain this point, I propose to arrange the consideration of it under two heads.

1/2, A review of such ancient instru-  
B 2 ments

ments as are extant, in which persons of this rank of peerage are mentioned.

2dly, A review of the laws of James I. that the constitution of the Scotch parliament may be discovered.

## F I R S T     H E A D.

### *Review of ancient instruments.*

**I**N the year 1292, the King of England being in the castle of Stirling, receiving *homage* from the landed persons of Scotland, there were present a number of the nobility. Among the nobility, appears John Comyn Lord Badenough.—— The words in the original run thus :  
 “ Presentibus ibidem nobilibus viris Do-  
 “ minis Johanne Comyn Domino Bade-  
 “ nogh,” &c. \*

If this person was not a peer, why is he called a *Noble Lord*? and if he was only a commoner, where was the occasion of describing him in any form different from the other gentlemen mentioned along with him?

\* Rymer's *Fœdera*, vol. 2. p. 571. — In p. 575. he is styled *Seigneur de Badenogh*.



A number of examples of this kind, where persons are described to have been *Lords*, occurs in writings of the thirteenth century. To recite them would be tedious. The reader who is curious of investigating this point, will easily satisfy himself, by looking at the testing clauses of a few ancient charters relating to Scotland, either in the tower of London, or in the record of the great seal at Edinburgh.

Every person in Scotland whose family had once been ennobled, holding lands of the King *in libero dominio*, had a right to be styled *Lord*.

When a person in ancient times appeared in parliament, if he held his lands *in libero comitatu*, he was marked down *Comes*; if he held his lands *in libero dominio*, he was marked *Dominus*; if he held them only *in libera baronia*, he was marked *Baro*.

If, then, it shall appear, that lands were held *in libero dominio* prior to the reign of James I. there must have been *Lords* in Scotland before the reign of that prince.

In a number of instruments long before the year 1424, the ranks of men in Scotland

are described thus : “ *The Earls, Prelates,*  
“ *LORDS, Barons, and great men of the*  
“ *kingdom* \*.”

A charter by William I. dated in 1171, of the earldom of Marr, to Morgund, the son of Gillocherus Earl of Marr, runs thus : “ *Willielmus Rex Scotorum univer-*  
“ *sis Episcopis, Comitibus, Abbatibus,*  
“ *Prioribus, Baronibus, Militibus, Thanis,*  
“ *et Præpositis, et omnibus aliis probis*  
“ *hominibus totius terræ suæ, tam clericis,*  
“ *quam laicis, salutem eternam in Domi-*  
“ *no,*” &c.

This instrument is to be found in Selden’s *Titles of Honour*, p. 848. If it proves the existence of Earls and Abbots in 1171, it is equally good evidence of the existence of *Barons*, as a higher rank than Knights.

In *Leland*, vol. 2. p. 9. there is an abstract of a book intituled, *How England should have homage and fealty of Scotland*. There occurs the following passage

\* “ *Prælati, Comitibus, Baronibus, Magnatibus,*  
“ *Proceribus, existentibus tunc ibidem.*”——

*Original instrument in the tower of London, dated in*  
1292, — *transcribed into Rymcr’s Fœdera Angliæ*, vol. 2. p. 597.

in

in it : “ Then Edward Baliol drew to him  
“ divers *Lords* and Gentlemen,” &c.

Although the earliest appearance of nobility in any of the families of our present Barons is only in the beginning of the fifteenth century ; yet it is highly probable that their ancestors arrived at that dignity long before that period. Though we cannot discover a Lord Sommerville, Gray, or Borthwick, earlier than about the year 1424, we are not therefore to conclude, that those persons were newly ennobled at the period when we discover them on record. It was adjudged by the House of Lords, in the year 1762, that there existed a William Lord Borthwick, a peer of Scotland, in the year 1421 ; and it appears from an instrument in the tower, that the peerage of Sommerville existed in the year 1423.

Nor is it any objection to what I have suggested, that those persons whom I mention as peers have, at later periods, been described simply by their land-estates, without any mention of their dignities. For it appears from a decree of parliament, dated 17th March 1429, lib. 3.  
N<sup>o</sup> 18.

N<sup>o</sup> 18. of the record, that the following  
*Lord Barons* were present ;

Abercorn,  
Dalkeith,  
Erskine,  
Lochow,  
Gordon,  
Dirleton,  
Sommerville,  
Maxwell,  
Montgomery.

These persons were Lords of parliament beyond all doubt ; yet it also appears from record, that at a later period several of them were designed simply by their land-estates.

In 1439, Lord Dalkeith is designed in a charter from the King, “ James Douglas  
“ of Dalkeith \*.”

In 1442, Lord Lochow, in his foundation-charter of the collegiate church of Kilmun, is designed, “ Duncanus Campbell de Lochow, Miles †.”

In 1430, Lord Montgomery, in his

\* Lib. 5. N<sup>o</sup> 135.

† Foundation-charter by Duncan Campbell, dated in  
1442.

commission from the King to be Governor of Kintyre and Knapdale, is simply described, “ Alexander Montgomery of “ Ardrossan \*.”

In 1434, the Lord Sommerville, in a charter mortifying some lands for pious uses, is described, “ Thomas Sommerville “ of Carnwath;” and *Lord Maxwell*, who is a witness to it, is only designed, “ Herbert Maxwell of Carlaverock.”

In the record of parliament 1434, Lord Dirleton is only marked, “ Walterus de “ Halyburton et Dirleton.”

From these facts it is clear, that a person who was truly a *peer* might be sometimes designed in the manner of a commoner; and hence it follows, that though the first Lord Sommerville, for example, discoverable on record, is in the year 1423; yet that person may have been a peer much earlier: nor, from the manner of his designation, is it impossible but that he may have been the son of a former Lord.

A list of Lords before the year 1421 is difficult to discover. However, from the imperfect scraps of records remaining, we

\* Lib. 3. N° 60.

are certain of the existence of that order as early as the year 1300\*.

Supposing a list of a thousand names under the character of Lords of Parliament of Scotland, anterior to the thirteenth century, to exist, it could afford no stronger proof that such a rank then existed, than a smaller number well attested. Though, through the fatality of time, the investitures of many of our ancient lordships are lost; yet there remains irrefragable evidence upon the subject.

There existed, before the reign of James I. the following *Lord Barons* of Scotland, at different periods; it is impossible to give an account of them existing at one time.

William Lord Sutherland,  
 Lord Lyndfay and Crauford,  
 Lord Badenough,  
 Lord Strathbolgie,  
 Lord Douglas,  
 Lord Brechin,  
 Lord Galloway,  
 Lord Liddefdale,  
 Lord Graham of Kincardine.

\* Rymer, vol. 2. p. 597.

It is certain that those others must have been universally acknowledged as *peers*, by the same authority as Lord Graham is acknowledged, which was no less than the supreme legislative authority of this kingdom. The whole of those persons I have named as peers, are proved by incontestable evidence to have been many times described under that character. To recite the different instruments relating to them would be very tedious. I shall only state evidence, that the Noble family of Montrose enjoyed the rank of peers in this country *before the return of James I. from England.*

If it is proved that any one family enjoyed the rank of Lords of Parliament before that period, no prejudice can arise to the other Noble families of the kingdom from the supposition that no such order of peers then existed. If it shall appear that the family of Montrose enjoyed the rank of *Lord Barons* before the year 1424, it ought not henceforth to be reckoned impossible that *the present Lord Barons* should derive their dignity from a coeval period. The imperfection of our records about that time, is well known to every person who

has the slightest acquaintance with them. If ten instruments existed in the year 1400, it is no unreasonable presumption to presume that nine of the ten are lost.

On the 1st of September 1413, Henry V. of England grants a letter of safe conduct to Walter Bishop of Brechin, William Lord Graham \*, and Robert of Lany †.

That Lord Graham must have been a *peer* in the strictest sense of the word, is plain. The very next paper on the same record, is a safeguard in favour of James Hamilton of Hamilton, dated the 6th of the same month: but the manner of his designation is very different from that of *Graham*. He is designed, *Jacobum de Hamilton*.

In an instrument, copied into Rymer's *Fœdera*, vol. 9. p. 101. the following peers of Scotland, in 1414, besides *Lord Graham*, are mentioned.

\* He is designed in the original instrument, *Willelmum Dominum de Graham*.

† The contrast between the mode of designing this gentleman and Lord Graham, is very conspicuous.



“ Comite Marchiæ de Scotia,  
Domino de Man,  
Domino Infularum de Scotia.”

And in another part of the same instrument the two last peers are mentioned thus: *Donaldo Domino Infularum, Johanne Stanley pro dominio de Man.*

In the year 1416, William Lord Graham gets a charter of the barony of Mellenok, in which he is designed, *Willielmo Domino Graham.*

And the same Lord gets a charter of the lands of *Aldmontrose*, dated the 4th August 1420, *Willielmo Domino de Graham* \*.

From these facts, then, it will be fairly proved, that there were *Lords* in Scotland before the return of James I. from England in the year 1424.

\* These charters are on the record of the great seal at Edinburgh.

## S E C O N D      H E A D.

*Review of the laws of James I.*

**T**HE next point to be reviewed is the laws of James I. that from hence we may discover the constitution of the Scots parliament.

From the act 1427, it is evident that the distinction between Great Barons, or Lords of Parliament, and Small Barons, was established before that year.

The statute runs thus: *That the small barons and freeholders need not come to parliament, &c. if they sent for each sherriffdom, according to its largeness, two or more wise men, except for the shires of Clackmannan and Kinross, each of which were to send but one, chosen at the head courts of the sherriffdom, to be their commissars or commissioners in parliament, who were to choise one to be common speaker of the parliament, to propone all causes to be proponed in parliament, and also their charges borne by such in each shire as owed comparance in parliament: but all Bishops, Abbots, Priors, Dukes, Earls, Lords of*

of

of Parliament, *and Barrents, were to be summoned to parliament by the King's special precept.*

This act does not make the distinction between the great and small Barons, but supposes it to have been generally known before: for it must have been known either by some law or custom introduced before that time, who those persons were who are styled *Lords of Parliament*, and who were to be summoned to parliament, as well as Dukes and Earls; else how could the designation, of *Small Barons*, and of *Lords*, have been here so familiar, or of any use? or what certainty could there have been in such indefinite expressions, unless the meaning of them had been determined? Among the acts of James I. there is no law making any difference among the *Barons*; therefore it may be fairly presumed that the distinction was well known long before the reign of that King.

*Of the limitations of the baronies of Scotland.*

I do not propose to enter deeply into  
this

this question. I only mean to state a few facts upon the subject. The Barons must excuse me for what I state on this point. It is no secret to the public that I am interested in the subject; and it will not be suspected, that any thing suggested by me will be prejudicial to their order.

The following existing peerages appear on record between the years 1400 and 1500.

Sommerville,  
Gray,  
Forbes,  
Cathcart,  
Semple,  
Salton.

None of them were constituted by patent; so that it is impossible to say how they stood originally limited. I have not had occasion to see the investitures of the land-estates of those peers; and though I had, I should not perhaps have thought myself at liberty to lay them open to public view. The presumption however is, that all the Barons of the fifteenth century held their peerages under similar limitations. Besides those Lords I have mentioned, there likewise existed the following

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ing peerages of the rank of Barons in the fifteenth century, along with several others.

“ Stuart Lord Lorn,

“ Stuart Lord Evandale,

“ Borthwick Lord Borthwick.

In the year 1452, John Stuart enjoyed the dignity of *Lord Lorn*. On the 20th of June that same year, a royal charter limits “ the *dominium de Lorn*, baronia de Innermeath, &c.” Johanni Domino Lorn, et *heredibus masculis* de corpore suo legitime procreatis seu procreandis; quibus forte deficientibus, Waltero Stewart, fratri germano dicti Johannis, et *heredibus masculis* de corpore suo, &c.

John Lord Lorn died without *male issue*. He left a daughter, married to Colin Earl of Argyle: yet the peerage went along with the estate to Walter Stewart, the *brother* of the peer \*.

This instance, although no other occurred in the annals of Scotland, is a convincing proof, that peerages descended to the brother of the person ennobled. Evan-

\* John Stewart was the first peer of the family of Lorn; — a material circumstance in this disquisition.

dale and Morton confirm the opinion : it is hoped the question will never occur in the case of Borthwick.

*Case of Evandale.*

In the year 1456, Andrew Stewart was created Lord Evandale. He died in the year 1488 without male issue. His estate and his peerage descended to his nephew Alexander Stewart, the son of Walter, the brother of the first peer. It will not be seriously asserted, that this was a peerage held by a tenure different from the other coeval peerages of the country : had the peerage of Evandale been constituted by any deed different from the investitures of the land-estate, that instrument would appear on record. The near connection between the family of Evandale and the Royal family of Stewart, warrants us to make this supposition :—the more especially are we intitled to make it, that the legislature of this country discovered so much anxiety in ascertaining the legitimacy of this Lord and his brother in the year 1479.

Having thus stated the facts with regard

gard to Lorn and Evandale, I should next enter upon the limitations of the peerage of Borthwick.—By a royal charter of the Lordship of Borthwick, in favour of the fourth Lord Borthwick, the dignified fief stands limited to a series of heirs *nominatim*.—Propriety forbids me to say more on the subject of this peerage. It is generally known, that the title to it is become the subject of litigation before an august assembly.

If a doubt should ever arise concerning the descent of any of those peerages not constituted by patent, the only sound principle to decide upon must be, the course of succession of coeval peerages. In a question concerning the succession to a peerage which existed in the fifteenth century, a presumption arises from the manner of succession in families ennobled at the same period. In the families where the dignified fief stands limited to a certain series of heirs, there cannot remain a doubt, but that those heirs, one after another, are intitled to the peerage as well as to the land-estate; but where no limitation of the land-estate appears, the only rule must be, the prevailing course of suc-

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cession

cession in similar cases. Because modern patents in England generally stand limited to the heirs-male of the body of the person ennobled, we are not therefore to presume, that ancient titles of honour stood so limited. This would be contrary to the rules of moral evidence.

In the year 1432 we have an example in England of a person created a Lord Baron without any limitation of heirs \*.

Having thus stated my observations on this subject, I must conclude with this remark, That if the ancient peerages of this country were not *territorial*, many of our Nobility have been *usurpers*; and several of them, at this day, only hold their dignities by a doubtful prescription. But if our peerages were territorial, it follows, that there has been no usurpation in the case; and that the present Noble families enjoy their dignities by unexceptionable rights.

Having finished the remarks I intended on the *peerages* of this country, I take the liberty to exhibit to the reader a list of the

\* Original patent of the barony of *Fawnehope* in the tower of London.



*ecclesiastical persons* who had lands in Scotland in the year 1296. The list is taken from the original instrument in the tower of London ; it is to be found an. 24. E. 1. Rot. Scot. e. 1. m. 11. and 10. Upon their having sworn fealty to King Edward, they got letters to the different sheriffs in whose jurisdiction their lands lay, ordering them to be put in possession.

Prior Sancti Andreæ, Vicecomitibus de Edinbrough \*, Fif, Perth, Kingkerdin, Aberdeen, Forfar, and Ber.

Abbas de insula Sancti Columbi, Vicecomitibus de Fif, Rokisburghe, Perth, Edinboure.

Abbas de Sancta Cruce, Vicecomitibus de Strivelyne, Dumfries, Edenboure, Berwick.

Abbas de Coupre, Vicecomitibus Forfare, Pert.

Priorissa Sancti Leonardi, juxta villam

\* It appears, that in the year 1543 the see of St Andrew's held a very considerable property in the county of Mid-Lothian. By a charter dated that year, the Archbishop of St Andrew's grants that tract of country, known by the name of *Gala-water*, to the Lord Borthwick, and his heirs-male.

Sancti Johannis, Vicecomitibus Perth,  
Edenborough, Haddington, Fif.  
Priorissa de Manwell, Vicecomitibus de  
Berwick, Edinborge, Linliske, Are.  
Priorissa de Northberwick, Vicecomitibus  
de Fife, Haddington, Edinboroughe, Ber-  
wike, Rokisburge.  
Priorissa de Eccles, Vicecomiti de Bere-  
wike.  
Abbas de Newbotle, Vicecomitibus de E-  
dinboroughe, Berwike.  
Magister Walterus de Lillisleaf, Parsona  
ecclesiæ de Kirkbryde, Vicecomiti de  
Dumfrize \*.  
Abbas de Dryburgh, Vicecomitibus de  
Fif, Berwike, Rokisburge, Edinborge.  
Petrus de Campania, Parsona ecclesiæ de  
Kynkell, Vicecomiti de Abirdine.  
Abbas de Skanskinne, Vicecomitibus de  
Strivelyne, Edinborge, Fif, Perth.  
Johannes Cornhole, Vicarius ecclesiæ de  
Dudynston, Vicecomiti de Edinborge.  
Willielmus Kynghorn, Parsona ecclesiæ de  
Lifton, Vicecomiti de Edinborge.

\* It is highly probable, that this "Walterus de  
"Lillislefe," or his ancestors, have been proprietors  
of the estate of Lillisleaf, now *Riddel*, in Roxburgh-  
shire.

Abbas de Alnwyk, Vicecomiti de Berwike.

Prioriffa de Linclouden, Vicecomiti de Dumfrize.

Adam Lamb, Parfona ecclefia de Polwarth, Vicecomiti de Berwicke.

Dungallus, Abbas de Sacra Nemore, Vicecomiti de Dunfres.

Henricus Lemoton, Parfona ecclefia de Duns, Vicecomiti de Berewyk.

Henricus, Vicarius ecclefia de Loghrynton, Vicecomiti de Dunfres.

Henricus Strivelyn, Parfona ecclefia de Upfetelington, Vicecomiti de Ber.

Willielmus, Parfona ecclefia de Aldham, Vicecomiti de Edinburgh.

Robertus Ramefy, Parfona ecclefia de Fuldene, Vicecomiti de Berewyk \*.

Andreas, Parfona ecclefia de Goger, Vicecomiti de Edinburgh.

\* As the barony of Foulden, in Berwickshire, belonged to the Noble family of Dalhousie, at a very early period, it is extremely probable, that the "Robert Ramfay" here mentioned was a younger fon of that family, — and ancestor of the Ramfays of Inverleith. In 1446, Robert Ramfay of Inverleith resigns his lands of *Crookston*, in the barony of Dalwolsy, in favour of "John, the second fon of the Lord of Borthwick."

Johannes Frefel, Archidiaconus de Sancto  
Andrea, Vicecomiti de Fif.

Frater Willielmus Corbet, Magister Domus  
Sancti Lazari de Harop, Vicecomiti de  
Edenburgh.

Stephanus Kyngorn, Parfona ecclesiæ de  
Pentland, Vicecomiti de Edenburgh.

Walterus, Parfona ecclesiæ Marton, Vice-  
comitibus de Dunfres, Berewyk.

Abbas de Jeddeworth, Vicecomiti de Bere-  
wyco.

Magister Hospitalis Sancti Leonardi de  
Lonweder, Vicecomiti de Berewyco.

Abbas de Kilwinnyn, Vicecomiti de Are.

Walterus Edger, Parfona ecclesiæ de Pem-  
cock, Vicecomiti de Edinburgh.

Abbas de Keldston, Vicecomiti de Bere-  
wyco.

Walterus Herok, Decanus ecclesiæ Mo-  
ravienfis, Vicecomiti de Junervan.

Nicholaus del Camb, Vicarius ecclesiæ de  
Grenelawe, Vicecomiti de Berewico.

Magister Henricus Bauſ, Cancellarius ec-  
clesiæ Moravienfis, Vicecomiti de Inreniff.

Robertus Rameſeye, Parfona ecclesiæ de  
Fulden, Vicecomiti de Berwico.

Alexander Puntumby, Parfona ecclesiæ de  
Kyrkum

Kyrkum in Rennes, Vicecomiti de Wiggeton.

Robertus, filius Radulphi, Parsona ecclesiæ sancti Cuthertide Ewytesdale, Vicecomiti de Dumfres.

Willielmus Kyngorn, Parsona ecclesiæ de Lyfteton, Vicecomiti de Edinburgh.

Johannes Cornhall, Vicarius ecclesiæ de Duddinggeston, Vicecomiti de Edinburgh.

Abbas de Newbolet, Vicecomiti de Strive-lyn.

Prior Sancti Andreæ, Vicecomiti de Clackmanan.

Andreas, Vicarius ecclesiæ de Dalgarnock, Vicecomiti de Dumfres.

Magister Militiæ Templi in Scotia, Vicecomitibus de Edinburgh, Berewick, Rokesburgh, Strivelyn, Lanark, Dumfres, Dunbretan, Pebles, Wyggeton, Foreys, Elgyn, Claonanan, Rotherglen, Forfare, Kynros, Oughtrardoner, Kyncardyn, Aberden, Perth, Fif, Are, Bauf, Innerenys, Crumbantyn, Dyngnale, Innervarn, et Selkirk.

Magister Willilmus Cluny, Præcentor ecclesiæ de Breghenyns, Vicecomiti de Forfare.

E

Simon,

Simon, Parsona ecclesiæ de Meddelby,  
Vicecomiti de Rokesburgh.

Richardus, Parsona ecclesiæ de Linton,  
Vicecomiti de Edenburgh.

Edm. Letham, Parsona ecclesiæ de la  
Foreste, Vicecomiti de Pelbles \*.

Minister Ordinis Sanctæ Trinitatis et  
Captivorum de Berewyk, Vicecomitibus  
de Forfare, Berewyk, Rokesburgh.

Minister Willielmus, Archidiaconus de  
Landōma, et Parsona ecclesiæ de Kelde-  
leth, Vicecomiti de Edenburgh.

Ferquardus, Parsona ecclesiæ de Stro-  
brock, Vicecomiti de Edenburgh.

Magister Walranus, Parsona ecclesiæ de  
Yetham, Vicecomiti de Rokesburgh.

Abbas de Lundas, Vicecomiti de Bere-  
wick.

Abbas de Muros, Vicecomitibus de Bere-  
wick, Are, Jeddeworth, Pelbles, Eden-  
burgh, Rokesburgh, Dumfres, North-  
umber. et Cumberl.

\* It is certain that this must mean "the for-  
rest of Etterick;" and it is very likely that this  
was the only church in Etterick forest in the year  
1296.

Abbas de Skamiskynel, Vicecomiti de Berewyk.

Prior de Wythorne, Vicecomiti de Wyggeton.

Magister Nicholaus de Merton, Parsona ecclesiæ de Kynnecles, Vicecomiti de Forfare.

Willielmus Spot, Parsona ecclesiæ de Tynnyngham, Vicecomiti de Edinburgh.

Priorissa de Sancta Boychanna, Vicecomiti de Berewyk.

Willielmus, Vicarius ecclesiæ de Dunmyn, Vicecomiti de Edinburgh.

Edwardus, Vicarius ecclesiæ de Wedhale, Vicecomiti de Edinburgh \*.

Abbas de Donquere, Vicecomiti de Karl.

Magister Hospitalis Sancti Johannis Jerusalem in Scotia, Vicecomitibus de Rokeburgh, Berewyk, Foreys, Bauf, Pebbles, Clatmanan, Are, Kynros, Wyggeton, Lanark,

\* Wedhale, or Weddail, was the name of that district now called *Stow parish*. It is not remarked for any circumstance in history, excepting that in the fourteenth century the inhabitants of this division were invaded by their neighbours of *Melrose*. A smart conflict ensued on a hill-side in the neighbourhood of Stow, in which the inhabitants of Gala water were sadly worsted. The country-people

Lanark, Dunfres, Elgyn, Selkirk, Dinguale, Perth, Jurenay, Strivelyn, Fif, Jurenys, Dunbretan, Kingcardin, Edenburgh, Forfare, Aberdin.

Adam, Parfona ecclesiæ de Dupply, Vicecomiti de Perth.

Bartholemeus, Magister Domus Sancti Germani juxta Hadyngton, Vicecomitibus de Berewyk, Edenburgh.

Priorissa de Hadyngton, Vicecomitibus de Berewyk, Fif, Hadyngton.

Johnannes, Archidiaconus Sancti Andreæ, Vicecomiti de Forfare.

Abbas de Dundernau, Vicecomitibus de Berewyk, Cumber.

Alanus, Parfona ecclesiæ de Roule, Vicecomiti de Rokefburgh.

Prior de Karl, Vicecomiti de Are.

Bernardus Linton, Parfona ecclesiæ de Mordyngton, Vicecomiti de Berewyk.

have entirely lost any oral account of this affair; only they shew the field of action, which, on account of the unnatural circumstances attending it, is called, *The murder-cleugh*.

The censure of the church was inflicted on the *Melrosemes*, for their barbarous conduct in this affair.

*Fordun, vol 2.*

Abbas



Abbas de Scone, Vicecomitibus de Inner-  
nys, Forfare, Perth, Edenburgh, Aber-  
den, Strevelyn.

Adam, Parsona ecclesiæ de Shoulden, Vi-  
comiti de Rokefburgh.

Patricius Gurleye, Parsona ecclesiæ de  
Loghorward \*, Vicecomiti de Eden-  
burgh.

Magister Domus Dei de Jeddeworth, Vice-  
comiti de Rokefburgh.

Magister Willielmus Cramund, Parsona ec-  
clesiæ de Wynchedurres, Vicecomiti de  
Dunfres.

Magister Alanus Dunfres, Parsona ecclesiæ  
de Dunbretan, Vicecomiti de Dunbre-  
tan.

Magilinus Ramefeye, Parsona ecclesiæ de  
Cocpen, Vicecomiti de Edenburgh.

Magister Robertus, Parsona ecclesiæ de  
Kynef, Vicecomiti de Kincardyn.

Magister Hospitalis Sanctæ Mariæ Virginis

\* This is *Ledgertwood* in Berwickshire, which an-  
ciently belonged to the Stewards of Scotland. The  
barony was granted about the year 1400 to the fami-  
ly of Borthwick.

The parson of Ledgertwood, in 1296, here named,  
appears to have been a younger son of the family of  
Gourlay of Kincaig.

de Rocherford, Vicecomiti de Rokef-  
burgh.

Robertus Strivelyn, Parsona ecclesiæ de  
Cranshawe, Vicecomiti de Berewick.

Magister Willielmus Dundee, Parsona eccle-  
siæ de Alneth, Vicecomitibus de Aber-  
den, Bauf.

Willielmus, Parsona ecclesiæ de Barewe,  
Vicecomiti de Edinburgh.

Frater Willielmus Magister Domus Sancti  
Augustini de Seggedin, Vicecomiti de  
Berewyk.

Robertus Lamberton, Parsona ecclesiæ de  
Waleston, Vicecomiti de Lanark.

Nicholus, Vicarius ecclesiæ de Lessewade,  
Vicecomiti de Edinburgh.

Mauricius Lunel, Parsona ecclesiæ de Par-  
va Caures, Vicecomiti de Rokefburgh.

Willielmus, Vicarius ecclesiæ Sanctæ Tri-  
nitatis de Berewyk, Vicecomiti de Bere-  
wyk.

Willielmus, Custos Hospitalis Sancti Jo-  
hannis de Hoton, Vicecomiti de Rokef-  
burgh.

Magister Nicholaus Louthmaban, Parsona  
ecclesiæ de Strivelyn, Vicecomiti de  
Pebles.

Radulphus

Radulphus de Hauden \*, Parsona ecclesiæ de Whytesum, Vicecomiti de Berewyk.

Magister Hospitalis Beatæ Mariæ Magdalennæ extra Berewyk, Vicecomiti de Berewyk.

Johannes Hayton, Custos Hospitalis Sancti Leonardi de Torrens, Vicecomiti de Larnark.

Eustachius Bykreton, Parsona ecclesiæ de Ughertermokody, Vicecomiti de Fyf.

Bartholomeus, Magister Domus Sancti Germani de Tranenynt, Vicecomiti de Aberden, Kyncardyn.

Magister Nicholaus Balmyle, Parsona ecclesiæ de Caledore, Comitis, Vicecomiti de Edinburgh.

Abbos de Dunfermelyn, Vicecomitibus de Forfare, Perth, Clacmalan, Pebles, Edinburgh, Rokesburgh, Berewyk, Fif.

Adam Selkirke, Parsona capellæ Castrî de Rokesburgh, Vicecomiti de Rokesburgh.

\* This *Radulphus de Hawden* was proprietor of the lands of *Hawden*, or *Howden*, in Channelkirk parish, Berwickshire.

Conenallus, Parfona ecclesiæ de Cambuslank, Vicecomiti de Berewyk.

Th. Candidæ Cafæ Episcopus, Vicecomiti de Cumbr.

David, Parfona ecclesiæ de Hilton, Vicecomiti de Berewyk.

Magister Hospitalis Sanctæ Trinitatis de Honefton, Vicecomiti de Hadyngton.

Ailmerus de Scoftlawe, Parfona ecclesiæ de Douglas, Vicecomiti de Lanark.

Robertus Gedderworth, Parfona ecclesiæ de Kyrmyghhel, Vicecomiti de Lanark.

Johannes Stowe, Parfona ecclesiæ de Glemby, Vicecomiti de Kyncardyn in Miernes.

Robertus de Walghton, Parfona capellæ de Walghton, Vicecomiti de Edinburgh.

Abbas de Gedderworth, Vicecomiti de Rokefburgh.

Willielmus Kyngorn, Parfona ecclesiæ de Kelcyern, Vicecomiti de Inernys.

Andreas Garmagh, Parfona ecclesiæ de Danyot, Vicecomiti de Aberden.

David, Vicarius ecclesiæ de Foghon, Vicecomiti de Aberden.

Willielmus Wodeburn, Parfona ecclesiæ

de Mynetowe, Vicecomiti de Rokelburgh.

Frater Thomas, Magister Domus Sanctæ Trinitatis de Soltre, Vicecomitibus de Edinburgh, et de Rokelburgh, Anegos, Fyf, et Berewyk \*.

Walterus

\* Soltray was founded by Malcolm I. The building stood on the eminence of the hill now called *Soltray-hill*. Nothing now remains but a vault, the burial-place of the family of Maitland of Soltray.

In the year 1462, the whole lands belonging to the monastery of Soltre were granted by Queen Mary, consort to King James II. to the use of the Trinity college church of Edinburgh ; as appears by the following charter.

“ Mary, by the grace of God, Queen of Scotland, to the Reverend Father in Christ, Lord James, by the grace of God and the Apostolic See, Bishop of St Andrew’s, our dearest Cousin, whom we reverence with honour becoming such a father : Therefore know ye, Reverend Father, That, for the praise and honour of the Holy Trinity, of the ever-blest and glorious Virgin Mary, of St Ninian the Confessor, and of all the saints and elect of God, we, the aforefaid Mary, with consent and assent of the illustrious Prince and Lord, James, our son, the invincible King of Scotland, and in perpetual memory hereof, for the salvation of the soul of the late illustrious Prince James King of Scots,

F

our

Walterus Kyreyngton, Parsona ecclesiæ  
de Dunnoter, Vicecomiti de Kyncardin.  
Johannes, Vicarius ecclesiæ de Langeton,  
Vicecomiti de Berewyk.

Frater

our late husband of pious memory, likewise for the  
souls of all the Kings and Queens of Scotland de-  
ceased, also for the salvation of the illustrious Prince  
our son James, the present King of Scotland, for  
the salvation of our own soul, those of our father  
and mother, ancestors, and of all the sons and  
daughters succeeding to and descending from them,  
and for the salvation of the Reverend Father in  
Christ, Lord James, present Bishop of St Andrew's,  
our dearest Cousin, and for the souls of all those  
whom consanguinity, affinity, or benefits, have en-  
deared to us, and of all those whom we have any  
wise offended in this life, to whom we are obliged to  
make satisfaction, and for the souls of all the faith-  
ful deceased,

We hereby make, constitute, and ordain, and for  
ever found, a provostry, for a provost, who shall  
preside in the government of the collegiate church,  
both in respect to the choir and divine worship per-  
formed therein, with eight prebendaries, and two  
boys, with a sufficient maintenance here under spe-  
cified; and we likewise make, constitute, and or-  
dain, and perpetually establish, the provostry of the  
said collegiate church of the Holy Trinity, near  
Edinburgh, upon the following fruits, as hereafter  
modified.

The provost of the said college shall, for his sub-  
sistence, have the church of *Soltre*, with the burdens  
the

Frater Bartholomæus, Magister Domus  
Sancti Germani juxta Hadyngton, Vi-  
cecomiti de Fif.

Willielmus Blida, Parsona ecclesiæ de  
Chirenside, Vicecomiti de Berewyk.

Richardus

the said church is subject to, viz. the vicar of the said church his pension shall sustain three persons residing there, and shall keep the church and ornaments thereof in good repair; and the said provost shall likewise have the lands of *Soltre Barns*, together with the town and lands of Hangingshaw, in the lordship of Herriot-muir, together with the kirk of Limpetlaw in Tiviotdale, with all the fruits thereunto appertaining; for which the said provost shall be liable to pay to the bishop and archdean the several profits they formerly received from the said churches.

The first prebendary shall be called the *Master of the hospital of the Holy Trinity near Edinburgh*; who shall have, for the support of his prebend, the fourth part of the fruits belonging to the rectoreal church of Strathmartin, in the diocese of St Andrew's, a two-pound land in the village of Fallahill in the lordship of Herriot-muir, an annuity of two merks out of the houses in Leith which belonged to William Chines, twenty shillings out of the village of Ersilton in the bailiery of Lauderdale, and two shillings out of the houses of John Allanfon and John Lawfon in Leith, at the terms of Whitsunday and Martinmas, twenty shillings out of the house of John Wauk in Edinburgh, five shillings year-

Richardus Fossard, Parsona ecclesiæ de  
Kylmalyn, Vicecomiti de Rokeburgh.  
Abbas

ly out of the house of Thomas Bishop of Dunkeld, six shillings and eight pence out of the village of Lawder, six shillings and eight pence out of the village of Strathmiglo, to be by us declared hereafter, as is more fully contained in the rental of *Soltre*; ten pence out of the village of Linlithgow, as is fixed in the rental; and five merk lands of Brotherstones and Gilston, within the territory of *Soltre*, with their limits, marches, and bounds: which Master of the hospital shall have the disposal of all the fruits designed for the maintenance of the poor of the said hospital, so to be limited, that he may carefully provide for all the necessities requisite, according to God and a good conscience; and to give to the provost and chapter an account of the profits twice in the year, and at other times, if required.

The second prebendary shall be called the *Sacristan*; who, for his maintenance, shall have the five-merk lands of Hill and Balerno; the five-merk land of Over Brotherstones and Gilston, within the territory of *Soltre*, to be limited by us as aforesaid, with a fourth part of the profits of the rectory of Strathmartin; and the said Sacristan shall have the disposal of the fruits appertaining to the chapter for buying the daily provision for the college, and shall account for the same to the prebendaries quarterly; and he shall keep the church neat and clean, and shall have the custody of the ornaments, jewels, and sacred vessels. He shall ring the bells, and furnish  
wine,



Abbas de Kelfhan, Vicecomiti de Rokef-  
burgh.

Frater

wine, bread, lights, and other things, according to the custom of other churches.

The third prebendary shall be called the *Prebendary of Brotherstones*; and shall have for his prebend two merks worth of land of the lands of Brotherstones, to be appointed by us, and a fourth part of the profits of the rectory of Strathmartin.

The fourth prebendary shall be called the *Prebendary of Strathmartin*; and shall have for his support five merks worth of land of the lands of Brotherstones and Gilston, and a fourth part of the profits of the rectory of Strathmartin.

The fifth prebendary shall have the title of *Gilston*; and have for his prebend the five-merk lands of Brotherstones and Gilston, together with a fourth part of the profits of the rectory of Ormiston, in the diocese of St Andrew's.

The sixth prebendary shall be called *Ormiston*; and he shall have five merks worth of land of Gilston, and a fourth part of the profits of the rectory of the church of Ormiston.

The seventh prebendary to be called the *Prebend of Hill*; and to have for his prebend the lands of Balerno and Hill, and a fourth part of the rectory of the church of Ormiston.

The eighth prebendary shall be called the *Prebend of Newlands*, in the territory of *Soltre*; and shall have a fourth part of the profits of the said rectory of Ormiston, &c.

In witness whereof, we have to these presents af-  
fixed

Frater Hugo, Minister Ordinis Sanctæ Trinitatis de Abirden, Vicecomiti de Abirden.

*List of Ladies of Scotland who swore allegiance to the King of England in the year 1296. — Transcribed from the original in the tower of London.*

Marjory of Grahame, — of Perthshire.

Eustachea of Chene, — of Banffshire,

Dernor Gulla of Chartris, — of Dumfriesshire.

Elisabeth of Langmuir, — of Weddale, part of Edinburghshire.

Isabella of Dundee, — Forfarshire.

Margaret of Penhook, — Ayrshire.

Alicea of Halyburton, — Berwickshire.

fixed our great seal, in presence of the Reverend Father in Christ Andrew Bishop of Glasgow, the Venerable Father Henry Abbot of Paisley, Andrew Lord Evandale, Chancellor of Scotland, George Earl of Angus, Alexander Lord Montgomery, and Sir John Ross of Halkhead, Knight, at Perth, the twenty-fifth day of March, in the year of God One thousand four hundred and sixty-two.

Agnes

- Agnes of Burncastle, — Berwickshire.  
 Elene of Blair, — Ayrshire.  
 Elene of Pepdie, — Berwickshire \*.  
 Anna of Newbotel, — Edinburghshire.  
 Maria of Keith, — Haddingtonshire.  
 Marjory of Sydefers, — Haddingtonshire.  
 Johanna of East Nesbit, — Berwickshire.  
 Maria of Synton, — Roxburghshire.  
 Alicia of Halyburton and Dirleton, — Haddingtonshire.  
 Petronilla of — Edinburghshire.  
 Marjory of Craiglockhart, — Edinburghshire †.  
 Isabella of — Forfarshire.  
 Margaret of — Berwickshire.  
 Maria of Abernethy, — Forfarshire.  
 Maria Countess of Strathern, — Perthshire.  
 Isabella of Malenly, — Edinburghshire.

\* Of this lady the Earls of Home, Marchmont, Dunbar, and Home of Wedderburn, &c. are descended.

† Craiglockhart was the ancient estate of the family of *Lockhart of Lee*.

Helena

Helena of — Haddington-  
shire.

Alicea of Ormiston, — Haddingtonshire.

Marjory of Gordon, — Berwickshire.

Elene of Duddingstone, — Edinburgh-  
shire.

Agnes of Craiges, — Edinburghshire.

Margaret of Lundy, — Fifeshire.

Mabilla of Congilton, — Haddingtonshire.

Eve of Lovel, — Aberdeenshire.

Sarra of Glen, — Peeblesshire.

Elisabeth of Ross, — Forfarshire.

Rosa of Dolphington, — Roxburghshire.

*A list of the wives of the prisoners of Scot-  
land, in England, in the year 1296.*

Agnes, — the wife of Alexander Minnerse.  
Eve, — the wife of Alexander Cumming of  
Badenough.

Agnes, — the wife of Richard, the son of  
David, Marshall of Scotland.

Mary, — the wife of Duncan Scot, the son  
of Michael Scot.

Emma, — the wife of William Clephan.

The Countess of Ross, — the wife of the  
Earl of Ross.

The Countess of Athole, — the wife of the Earl of Athole.

Isabella, — the wife of Andrew Synton of Roxburghshire.

Alifcea, — the wife of William of Lindfay.

It is material to observe, that about this period King Edward of England used to summon the Ladies, as well as the Earls and Barons of his kingdom, to attend him in war. In the year 1291, he summoned the Ladies of Cumberland and Westmoreland to meet him at Norham, (a village near the Scotch border), accoutred with horses, arms, and all proper services. The consequences of this summons, it is believed, Scotland will never forget.

In the year 1294 he summoned a number of Ladies to his wars in Gascony.

*Abstract of examples of territorial peerages.*

James the third Earl of Morton had no male issue. James Douglas, the second son of George Douglas, brother of Archibald Earl of Angus, married the third daughter of this Earl. It is well known

G

that

that this James Douglas could not possibly be either the heir-male or heir-general of the third Earl of Morton.

In the year 1567, the said Earl of Morton granted a charter of the earldom of Morton, together with his whole other land-estate, in favour of the aforesaid James Douglas, and the heirs-male of his body, &c.

Queen Mary confirms this charter in the year 1564. Earl of Morton having died soon after, he was succeeded in his earldom by the aforesaid James Douglas, who, as has been already observed, could not possibly be either his heir-male or heir-general. Nor is it possible that ever James Douglas held his peerage of Morton by any other title than the charter of the earldom aforesaid. A strict search has been made among the writs of the family of Morton to discover if there was any patent of this peerage, unconnected with the land-estate, and it does not appear that any such exists. Although, as has been already observed, the records of Scotland are defective in the more ancient periods; yet it is evident that they are abundantly complete in the days of *Regent Morton*:  
yet

yet there does not appear in all the records of this country the most slender evidence of a creation in favour of James Douglas. Therefore, until it shall be proved that he was created a peer by a patent unconnected with his land-estate, it must be presumed, that his charter of the earldom of Morton was the only instrument which authorized him to assume that dignity.

The same family of Morton affords another example of the territoriality of honours. In the year 1457, in the parliament of Scotland, the Chancellor declared the King's intention of raising Lord Dalkeith to a higher rank of peerage, by the title of *Earl of Morton*. In this parliament it happened, that William Lord Borthwick, the brother-in-law of Lady Dalkeith, was present, who had seldom been so in other parliaments. The mentioning of the erection of the dignity of Morton alarmed this Lord. He recollected, that the former Douglas, Lord Dalkeith, the husband of his sister, had devised the estate of Morton to William de Douglas, the son of his second marriage, and the nephew of the Lord Borthwick. Lord Borthwick therefore objected to the erection of this digni-

ty, in respect that it might prejudice the rights of his nephew William de Douglas. Upon which the Chancellor of Scotland replied, That the intended peer should not take his title of dignity from the lands and estate of Morton, the property of Lord Borthwick's nephew, but that he should take his title of honour from lands called *Morton* in another part of the kingdom.

The family of Hay, Lord Yester, now Marquis of Tweeddale, affords another striking example of the inseparable connection between the *estate of the peer* and the *peerage*.

In the year 1590, William Lord Hay of Yester resigned his lordship of Yester in favour of himself, and the heirs-male of his body; whom failing, to James Hay his brother-german, and the heirs-male of his body; and failing them, to a number of other heirs contained in the charter of entail following upon the resignation. Lord Yester, however, paid the common debt of nature before he had got investment of this his new charter, leaving no heirs-male of his body.

In the year 1591, King James grants a  
charter,



charter, precisely in terms of the former, in favour of James Hay, the brother-german of the aforesaid Lord. The particular clause ingrossed in this charter is so very material, that it must for ever attract the attention of the curious in a private capacity, and is every way well worthy of the notice of the supreme judges of the British legislature.

“ Insuper nos, ex nostra scientia et proprio motu, pro nobis et successoribus nostris, volumus et concedimus, qua dictus Jacobus, frater germanus antedicti Willielmi Domini de Yesta, heredes suæ masculi et taliæ respectivæ et successivæ, supra specificat. omni tempore affuturo, habebunt, gaudebunt, et possidebunt votum in nostris parliamentis, conventionibus generalibus, conciliis, et omnes alios honores, dignitates, et præeminencias, quæ vel quas per dictum quondam Willielmum Dominum Hay de Zister, aliosve suos prædecessores aliquo tempore retroact. possessæ vel gavisæ fuerunt, simili modo, et adeo libere, ac si dictus quondam Willielmus Dominus Hay de Zester in  
 “ hereditario

“ hereditario feodo præfat. terrarum, ba-  
 “ roniarum, dominiorum obiisset; et ac-  
 “ si dictus Jacobus ejus frater germanus  
 “ sibi in eisdem tanquam *heredi masculo et*  
 “ *tallie*, per brevia capellæ nostræ, intro-  
 “ isset.”

It was about this period that the practice of making special grants of titles of honour began to prevail; and in this very charter the vestiges of the territorial ideas most conspicuously appear. In our days, it is a matter of no consequence, whether the peer last in possession dies seised in his estate or not; the title of honour still descends. A different notion, however, appears to have prevailed in the year 1590. Infeoffment seems to have been necessary, and a connection between the estate and the title of the peer appears to have been inseparable.

In the great family of Gordon a striking instance of the inseparable connection between the land-estate of the peer, and the title of honour thereon founded, appears. The first Gordon Earl of Huntley was thrice married. He settled his estate of *Huntley* upon the son of the third marriage,

riage, who accordingly succeeded in the estate, and was acknowledged by the estates of the kingdom to be Earl of Huntley. The peerage could not have been enjoyed by him under any other idea than as inseparably founded upon and connected with the land-estate ; nor is it possible that if he had enjoyed it by any separate patent of honour, that this great family would have lost it, considering how important it was, and how carefully their other numerous writings have been preserved.

In a late claim of peerage, (the case of Sutherland), one of the claimants thought proper to set forth the following doctrine.

“ The law was stricter in the descent of  
 “ peerages, than of lands. Thus the col-  
 “ lateral heir-male of the first grantee of  
 “ the land took the land ; but the collate-  
 “ ral heir of the patentee could not take  
 “ the peerage, because not of the body of  
 “ the patentee. This was so decided in  
 “ the case of Oxfoord.”

When this state of the case is examined, the story set forth will not be found to have any foundation in the law of Scotland. Whether or not peerages went to collate-  
 rals

rals beyond the line of the person first ennobled, did not fall to be the subject of disquisition in the case of the peerage of Oxfoord in the year 1735.

That case stood shortly thus. In the year 1651, King Charles II. granted the dignity of Viscount Oxfoord, and Lord Macgill of Coufland, to Sir James Macgill, *his heirs male, of tailzie, and provision, whatsoever.*

In the year 1735, James Macgill, the heir-male of the patentee, descended from the elder brother of the patentee's grandfather, claimed the peerage. He was not, however, the heir of provision of the patentee, that character belonging to Robert Macgill of Cranston-Riddle. The heir of provision did not himself claim the dignity, but he opposed the claim of the heir-male.

On the 25th of April the claim was heard. James Macgill, the heir-male, claiming the dignity, was found to have the half of the character, but to want the other half, intitling him to take up the honours. He was heir-male; but he was not heir of tailzie and provision. Under these

these circumstances, his claim was set aside. Had James Macgill been heir male, of tailzie, and provision, of the first Lord Oxfoord, the late decision in the case of Kirkcudbright, warrants us to suppose, that a judgement widely different must have been pronounced.

From the state of this claim, then, it appears, that the House of Lords had no occasion to determine, whether or not a peerage did descend to collaterals not descended of the body of the patentee. In the foregoing pages, it appears, that in the earlier period of the history of this country the question never arose; that, on the contrary, the heir of the dignified fief was always considered as heir of the honours.—Whatever judgement, or upon whatever principle pronounced, in a case like Oxfoord, it could not in any degree affect the succession to the ancient Feudal dignities of this country. In a dispute about the succession to any ancient dignity, Oxfoord may with propriety be considered as a creation of yesterday. It is the form of descent in such peerages as Morton, Lorn, and Evandale, that must

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rule

rule the succession of dignities of the same date \*.

\* It will not be disputed but that the following Scots peerages, not constituted by patent, have descended to collaterals beyond the line of the descendants of the body of the first peer ;

Evandale,  
Carrick,  
Morton,  
Roths,  
Lorn.

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Although there is no immediate connection between the following *Treaties* and the foregoing subject; yet as I have caused copy them from the original for my own curiosity, I am hopeful the curious will not think it improper that they be hereto annexed.

*Conventions*

*Conventiones super Treugis Scotiæ.*

**A**T Haudanstank, the xxvi day of the moneth of October, the yher of grace M. CCC. LXXX. and XVIII.

Betwix Sire William of Borthwic, Sire John of Remorgny, Knightis, and Adam Forstar, Squier, Commissairs, of a hey and myghti Prince the Kyng of Scotland, on the ta part, and Sire John Busly, Sire Henry Grene, Knyghtis, Maistre William Feryby, Clerk, and Lawrence Dreu, Squier, Commissairs of a hey and myghti Prince the Kyng of England, on the tother part,

It is accordit in the manere efter followand.

In the first, forthi that it was accordit and ordaint throu, myghti Princes and Lordis, the Dukes of Rothefay and of Lancastre, That al manere of prisioners that has bene takin on bath the sides, sen the begynnyng of the trewis, tane at Lollyngame the yher Lxxx and nyne, suld be frely deliverit, and thai that raunson had payit, their raunson till have bene restorit to thaim befor the fest of Myssommer last past, as it apperis plainly be the endentures tharof mad, of the qwhilk ordenance ful execution is noght mad till this tyme.

And therefor the Commissairs forsaid will and ordains, That ful and deu execution be made of the said ordenance in this manere, (that is to say),

That al prifoners that are undeliverit be freli deliverit before the feft of Alhallowmeffe that next commis; and al thai that raunfon has payit fal have their raunfom reftorit til thaim before Kandilmeffe day that next commis.

To the fulfilling of the qwhilk, the Erle of the Marche, Wardain of Eft Marche of Scotland is oblift, be his letter to Sire Henri Percy, Wardain of the Eft Marche of Ingland, and the faid Sire Henry is oblift, be his letter to the faid Erle, ai-thir for his boundis agaynis other.

And Sire Richard of Rothirfurde, Sire Willame Stewart, Knyghtis, Walter Scot, Thomas Torne-bule, and Robert of Lawedre, ar Borowis for the Erlis boundis of Douglas of the mydil marche.

And Sire Thomas Gray of Heton, and Sire Thomas Gray of Horton, Knyghtis, Robert Unfravile, fon of Mydforde, and Thomas of Knayton, are borowis for Sire Henry Percy's boundis for the Eft March.

The qwhilk borowis ar aither oblift till other in gud faith; and ye forsaid commiffairs are bondin, in thair Kyng's name, for al prifoners and raunfons of withowt the boundis of the marches.

And gif it happens, that ony prifoner or prifoners be with-haldyn agaynis this ordenance, he or thai that haldis thaim fhall be conftreignyt be the Lordis Commiffairs to bath the Kyngis, at thair metyng at dayis and placis under written, to  
deliver



deliver the said prisoners frely, and assith thaim of the harmis that thai have susteint in deffault of their deliverance efter this ordenance, and for to pay the valeu of the prisoners raunfond to the said Lordis Commissairs, for their disobeiffance.

And gif ony raunson be unrestorit at the fest of Kandilmesse forsaid, the with-halders sal be constreignyt, be the said Lordis, to restore the raunson or raunsouns to the parties, and to pay the double to the Lordis for their disobeiffance.

Item, It is accordit and ordaint, That all prisoners that has bene takin on baith the parties sen the xvi day of the moneth of March that last was, ar, and sal be quicly and frely deliverit, with their hors, and their harnes, restorand the harmis that thai did in the tyme of the takyng qwhen thai reffave thair hors and thair harnais.

And gif ony be ranfound, and thair ranfouns payit, partie or all that ranfoun sal be restorit to thaim before the fest of Kandilmesse forsaid, upon the payn of paying the double in the manere forsaid.

And all prisoners that are lattin to borgh, and al men that are borewis for payment of raunsouns, sal be frely dischargit of payment, and of entre, withouten reprofe.

Owtane, that Adam of Gordon, William the Barde, and Adam Franche, ar lattin to borgh to the said Commissairs of Scotland, for til apere at the next day of metyng of the gret commissairs

missairs of bath reaumes, under the payne of thre M. Pounde.

Ye quhilk commissairs ar oblist, in thair Kyngis name, for til appere the said perones before the said Lordis Commissairs as hale men and founde, under the payn foresaid, for til undergang and fulfil the ordenance of the said Lordis Commissairs of it, that fall be said agaynis thaim; and alswa that thai sal noght do, ne ger do, agaynis the Kyngis trewis in the mene tyme.

And the cause is, that ther men ar noght frely deliverit, forthi that it is borne thaim on hand, throw the partie of Ingland that thai ar, and has bene commoun trew-brekars, and unmesuret harmis has done within the tyme of this trewis, the knowlage of the quhilk the Commissairs foresaid thynkis mast fittand to the foresaid Lordis.

Item, Forthi that commoun vois is, on bath the sidis, that Scotismen borne reffaut to the feute of Ingland, and dwalland on the marches of Ingland, and Inglisshmen borne, reffaut to the feute of Scotland, and dwelland on the marchis of Scotland, are principale cause of distroublance of the quiet of bath the reaumes, it is accordit and ordaint, That fra hein fortawart thar sal na Scotisman be reffaut to ye faith of Ingland, ne nane Inglisshman to the faith of Scotland, the qwhilest that the said Commissairs mak relation to bath thair Kyngis of this article; and thane gif it lik to bath the Kyngis, this ordinance sal be kepit endurant their trewis.

And

And tha Scottis borne men, that now ar reffaut fyn the begynning of thir trewis, ta the faith of Ingland, fal be conftreyngt to dwelle and mak refidence on fouth half of the watir of Tyne in Ingland before Candlemes neft command.

And al the Ingliſh borne men reffaut to the faith of Scotland, fyn the begynning of the faid trewis, fal be conftreight to dwelle and mak refidence als for fra the marches as Edynburgh be the faid tyme.

And gif any on aither fide beis fondyn dwell-and, command, or gangand, nerrar the marches than the boundis forefaid, the officers of that contre that he beis foundyn in fal be haldin, throw vertue of thair oithis and office, to tak him or them fwa brekand ordenance, and to deliver him or thaim to the wardains of the marche of the partie adverſe, to demain at their lyking; and this ordence till be kepit, at the lyking of the Kingis as is forfaid.

Item, It is accordit, That all marchantz, and their gudis, that has ben tane be fe, or be land, ſen the begynning of the faid trewis, fal be frely deliverit, withouten obftakil, on bath the parties, with al gudly haſt, (that is to ſay), tha that ar un-aſſithet this day.

Item, For als mykil as thair has ben mony and gret attemptance done fyn the begynning of ther trewis on bath the fidis, ye qwhilkis ar unre-dreſſit to this tyme, the reformation of the qwhilkis the faid Commiſſairs ne may noght, for faut of laifure,

laifure, at this tyme particularly, ger be refourmyd and amendit, it is accordit and ordaint, That the wardains of the marches throw thaimself, or throw their deputes, fall every moneth hald certainz dayis of redrefse, and gar reform and redrefse al attemptats and myſtakynge that has ben done agynis ther trewis, after the tenure of the endentures mad, at Haudenſtank, the 16 day of Marche laſt paſt; and qwhat tyme that that endenture be reformyde, it ſal be leful to the party of Ingland til gif up qwhat bill ta thaim likis, the qwhilk ſal be redreſſit and aſſithit with the redrefse of the foreſaid endentures; and thanc, that done, the partie of Scotland ſal gif up qwhat bille that thaim liſt, till be redreſſit in the ſamyn manere.

And gif it hapins, (as God forbed), that any attemptat or attemptatz bene unrefourmyd or unredreſſid, in deſſaut of negligence of the wardains of the marches, or thair deputes, on owther partie, the ſaid Lordis, at their metyng, ſal tak knowlage, and ger try in qwais deſſaut that attemptatz leins unrepaired and unamendit, and ſal puniſch hym or thaim that bees fondyn deſſautif, in ſwilke manere that it be enſauple til al othier officers in tyme til come; and this ſal be done at the metyng of the gret commiſſairs before all other thyngs; and for to make cler knawynge to the Lordis, in qwais deſſaut the ſaid redrefse leins unmade, it is ordaint, That the wardains, or thair deputes, ſal

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endente,

endente, at ilk day and place, the manere of thair departyng.

Item, It is accordit and ordainit, That for the mar fikir kepynt of the trewis in time till come, that gif ony man of the ta reaume dois harme within ye tother reaume, (as takyng or slaghter of men, or takyng of gudis, or brynnyg of housis, or takyng of castell or fortrefce), the wardains of the marches, gif he be within their boundis, fra thai be requirit, fal be haldyn for to bring that misdour or misdours to knowledge of marche, and qwha fa beis fondin culpable of any fik trefpas, done in tyme til come, he or thai fal be deliverit to the partie that has fustaint the sekath, to fla or raunfoun at thair lykyng; and castellis and fortrefces swa takin fall be deliverit; and gif plaint be, that ony fik misdour be without the boundis of the marches, the conservatours of thair deputes, fal be haldyn to do and fulfil in the manere forsaide, on bath the partiez; purvay'd, That the heritages on bath the sidis stand in the fourme and vertue as is compris'd within the trewis.

Item, It is ordaint, That the garrisons of the castellis fal nought inquitte the habitans of the countre agaynis the vertu of the trewis.

And it is allwa ordaint, That na man fal dis- trouble the garnisons, ne let thaim to bryng ne to by thair vittailles, ne their meubles to thar castellis; and that the habitans of the contre fal do

thair devoirs and dewties to the castellis as the trewis wil.

Item, It is accordit, That to the fulfillyng of the articles befor written, and for othir special cause twochand both the reaumes, the Duk of Rothysay, or ellis som other gret Lord of the Kyngis blode of Scotland, with consel of the Kyngis of Scotland, sal be at Edynburgh the first day of Marche next command, or ellis on the Son-day thre wikis efter Pafe thar efter next, qwilk that it maist likand to the King of Scotland, of the qwhilk he sal gar certifie to the Kyng of Ingland be the fest of Yhole next command; and that the Duk of Lancastre, or ellis some other gret Lord of the Kyngis blode of Ingland, with counsel of the Kyngis of Ingland, with him, sal be at the Newcastle ane of samyn dayis, at the lyking of the Kyng of Ingland, of the qwhilk he sal ger certifie the Kyng of Scotland the Yhole that next commis.

And at qwilk day it lik to bath the Kingis, that the said Lordis, with consaille, be at the placis forsaid, it is accordit, That thai sal send thair messages entrechangeably, aither till othir, til certifie the willis of both thair Kyngis, swa that, or thai depart forthir fra the marches, thai sal mete at a certain day that be most likand to thai both, owther at Haudynstank, or ellis at some other place that be mar likand to bath the parties, and thair do and fulfil al that to thaim pertenis of this endenture.

Item,

Item, It is accordit and ordaint, That, to the execution of ther articles aboven written, the wardins of the myddil marchis, or thair deputes, sal mete at Ganelispeth on the morne after the fest of Saint Martin that next commis, and sva fra moneth til moneth, at dayis and placis as it may be accordid betwix the said wardens, or thair deputes, ay quiles that all the articles aboven written be fully refourmyd and redressit, and on the Thorisday a sevenyght next folowand, the wardains of the est marche, or their deputes, sal assemble to do and fulfil as is aboven written.

Item, It is accordit and ordaint, That na man, on nowthir side, sal gif ne tak tribute ne rounsons for protections, ne asseverances, endurand their trewis; bot that ilk man sal leliely kepe, and ger kepe, the Kyngis trewis withoute fraude or guyle.

Item, It is accordit, That the Kyng of Scotland sal ger certifie the Kyng of England, before Yhole that next commis, at qwhat day he may be sondyn in convenable place, qwher the King of England may send his messages to see him swere to this trewis, and that the Kyng of Scotland may send til hym to se hym swere the samyn; and the cause of this delay is, that the Kyng of Scotland is occupyit in sik placis, qwhar it war nocht eseful till the Kyngis messages of England to come til his presence.

Item, It is ordaint and accordit, That all manere of man in both the reumes, sal have fredome

to follow their gudis, that beis stollin, or rest fra thaim, with honde and horne, out of the ta reaume in the tohir, at thair lyking, or in what gudely manere they list with owten bow and sphere; and that na man be swa hardy to distrouble in to sik folowing on payne of tynfail of lyfe and lyme.

Alswa it is accordit, That all skaithis that has been recoverit befor wardains, or thair deputes, on aither partie, sal be payit and assithit be Kandil-messe day that next commis.

Yn the witnes of qwhilk thyngs, the Seel of Sire Williame of Borthnic, the Signet of Sire Jon of Romergny, and the Seel of the Abbot of Melros, procurit throw Adam Forstar for the partie of Scotland; and the Seels of Sire Jon Buffy, and Sire Henry Grene, the Signets of Maistre Williame Feryby, and Lawrens Dreu, for the partie of England, to the parties of thise endenture enterchangeably are put the place, day, and yher foresaid.

Sub tribus figillis, rubea cera expressis, pendentibus a caudis pergamænæ.

*Super Deliberatione Prisonariorum.*

**A**T Hawdenstank, the xxviii day of October, the yhere of our Lord M. c. c. c. nynty and aught.

Betwixt Sire William of Borthewick, Sire John  
of



of Romergerney, Knights, and Adam Forster, Squier, Commissairs of a Hey and Mythey Prince the Kyng of Scotland; and Sire John Bufshy, Sire Henry Grene, Knychts, Maister William Fereby, and Lawrence Drew, Squier, Commissairs of a Hey and Mychty Prince the Kyng of England.

It is accordit in the manere after followand.

In the first vynu it appers be an endenture made, at the place foresaid, betwix Mychty Princes and Lordis, the Dukes of Rothefay and of Lancaster, the xvi day of Marce last passit, that all manere of prissoners that has bene taken on bathe the sides syn the beginning of the trewes, tane Lewlynghame the yhere, &c. auchty and nyne, suld be quietly and frely deliverit.

Of the qwhilk Sire John Hamylton of Cadyaw, Sir John of Hamylton of Finyngalton, and syndry marchands of Scotland with thaim, beand taken in a shipp thruch William Gednay and his company, and accusit, That you suld have dane agaynes the trewis, war and ar frely deliveryt, nocht agayn standand the accusation pretendit agaynes thaim.

Qwarefore it is ordaynd and accordit, thruch the Commissairs foresaid, That yere shippe, and all your gudes, ore elles the price thereof, sal be frely delyveryt to them in yis maner; the gudes that came to the Kyng's officers of England, the Kyng sall garr pay and restore, and ye takers sal be constreynet be your Kyng, to restore the furp<sup>r</sup>is efter, as the plaintiffs may prove, ore ell  
deliver

deliver your bodys fore the gudes qwar you fail of payement.

Item, Sire Ph. of Stanely, Capitaine of Roxburgh, gave a bille, Pleynand of the Erle Son of Douglas, and fundry men in the cumpany with him, of the qwhilke Sire Williame Stewart was ane, hat you had broken the brig of Roxburgh, brynt yair town, and spuylit that broken yair welles, and brynt their hay, and their fuell, to thair scathes of twa thowfand pund ;

And forethy, that the said Sire William was presnt on the feylde, he was constreynit tyll answer tyll the said compleynt ; to the quhilt he answerit, sayand, That the brekying of the brig, the brynnig of the hay and the fuel, hys Lorde dyd of purpose, thynkand, that he nicht do that lauchfully, nocht agyn standand the trewis ; forethy, that al was and ys Scott mennys heritage ; nevertheles, qwhether it be fully justifabyle, or nocht, the kannocht say ; bot gif it beys determynit be the commissairs, an attemptate againe the trewis, it sal be amendit as it aw to be.

The brennyng and the sprething of the town he graunts till amend, as a thyng done agayne his Lord's defense, and alsa agayn the trewes.

The qwhilk answer herd, the said Commissairs has referrit the knallage of this article to thair Lordes for the heynefs of the mater.

Item, How swa that it is accordit in the grete indenture, That al maner of persons, on bath the sydes, sud be deliverit by Alhalowmef's next command ;

command; the qwilke the commissairs forsaide are oblist for all persons beand without the boundes of the marches, for als mykell as persons may be with halden infeir marches of bathe the rewmes, the qwilke perauventur may nocht fathfaylly be deliveryt.

It is accordit, that thaia gair all pearsons of without the boundes, be deliveryt with all gudely hast, that thai may sa that thai be deliveryt by Yhole next comand at the lattast.

In the witness of the qwhilk things, the Sele of Sire William of Borthwick, the Seignet of Sire John of Romergny, and the Sele of the Abbot of Melrofs, procurit throw Adam Forster for the partie of Scotland; and the Selis of John Bussy and Sire Henry Grene, the Seignets of Maister William Fereby and Lawrence Drew, for the partie of England, to the partiez of this indenteris interchangeably are to put at day, place, and yhere forsaide.

Sub tribus figillis, cera rubea expressis, pendentibus a candis pergamænæ.

*De appunctuamentis super Treuga antedicta.*

AT Clochmabanestane, the vi day of November, the yere of Grace m. c. c. c. nynty and aught.

Betwix Sire William of Borthwick Knycht, and Roger of Gordown Sqwiere, Commisfarez of  
the

the Hey and Mychty Prince the Kyng of Scotlande on the ta parte, and Sire John Bussie and Sire Henry Grene, Knychtez, Maistre Willame Firiby Clerc, and Lawrence Drewe Squiere, Commissaries of the Hey and Mychty Prince the Kyng of Ingland on the tothir parte.

It is accordit in the manere efter followand.

In the first, forthly, that it was accordit and ordainit, through Mighty Princes and Lords, the Dukys of Rothefay and of Lancastre, That all manere of prifoners that has bene takyn on bath the fyds syn the begynning of the trewis, takin at Lollynhame, the yere and the last auchty and nine, fuld be frely deliverit, and thai that ranfowne had pait the rawnfon til half bene restorit to thaim before the feest of Mydsomer last past, as it appers plainly be the endentures thereof made; of the qwilk ordenance ful execution is nocht made til this tyme.

And thairfore the Commissairs forsaid will and ordanyt, That full and due execution be made of the said ordennance in this menere; (that is to say), that al prifoners that are undeliverit be frely deliverit before the feest of Saint Martin that nest commis; and all thai that raunfon has payit, fal haf their rasom restorit til thaim before the fastyngange Sonday that nest commys.

To the fulfilling of the qwils, Sire John of Johnstowin, Sire John of Corlel, Sire William Stewarte of Castel-mylke, Knychts, Harbarte of Corry, John of Carruthers, John of Glendowyne,  
Symown.

Symown of Glendowyne, Nicol Litel, Alexander Armstrong, and William Nykfon, are borrowis for the Erlis bounds of Douglas for the west march of Scotland.

And the samyn Knyghts and Sqwiers has heytht, before the said Commissairs, be thare gude flaitis, that thai sal well and trewly kepe their preventz trewis that are accepts by bathe the Kyngis, and that thai sal redreis and gar be redressyt, wele and trewly, efter thair lele powair, all the attemptats done fyn the begynnynge of the said trewis, takyn at Lollynghame, without frawde or gyle, efter the fourme and the effect of the said endenturs, made at Hawdenstank the xvi day of March last passit, be the foresaid Duks of Rothysai and Lancastre, and the fourm of the trewis foresaid; and at thai sal, with thair poware, lett al men of the party of Scotland that wuld passe thur thair bownds to do harme in Ingland or til any Inglishman.

And John of Skelton, Lewtenant of the west marche of England, in borgeh in the of the samyn marche semblably to do, and fulfill the said ordennance.

And Sire Peris Tilzoll, Sire Willame Culwey, Sire Willame of                    kee, Sire John of Simivili, Sire William of Swynburng, and Robert of Umfraville, Knychts, Willeme of Stappilton, Giffrey Filiol, Rolland the Vaux, John of Dalmon, Richart of Salchela, Thomas of the Sands, Dikker of Skelton, and Willame of Temuduawe,

ere borrowis for the samyn bownds, to do and fulfil that that to thaim longys in this marche at thair lele poware, without fraude or gyle.

And the samyn Knychts and Squiers of Ingland has heytht, before the said Commissairs to be thaire gude faythe, That thai sal weli and trewly kepe thir presentz trewis, that ar accept by bath the Kyngs, and at thai sal redresse, and gar be redressyt, wele and trewly, efter thair lele poware, all attemptats fyn the begynnyng of the saids trewis takin at Lollynghame, withouten fraude or gyle, efter the fourme and the effect of the foresaid endenturs madz at Hawdenstanke the xvi day of Marce last passyt, be sye forsaidez Duyks of Rothissay and of Lancastre, and the fourme of the trewis forsaide; and that thai sal, with thair powair, lett all men of Ingland that wald passe thur thair bownds to do harme in Scotland, or to any Scottis man.

And the foresaid Commissairs ar bundyn, in thair Kyngis name, for all prisioners and ranfowns of without the bownds of the west marche.

And gif it happen that ony prifownere, or prifowners, be with-halden agaynis this ordenance, he, or thai that halds yaim, sal be constreynt be the Lords Commissairs to baith Kyngs, at thair metyng, at day and place that thai sal and ordaine at thair metyng at the est march, before thair departing, for to be at the west march n thair awyne persowne, or be suffisand commissairs of thair Kyngis, to deliver the saidz prisioners, and  
asslythe

affythe them of the harmes that thai haf sustenyt, in defawte of their deliverance, efter this ordnance, and for to pay the value of the prisoners ranfown, to the said Lordis Commissairs, for thair disobeyffance.

At qwilk daiz and place, the said Lords, or the said Commissairs, sal redress, and gar be redressyt, all manere of trespassse, and attemptatz done agayns the trewis, and the fourme of the endenturs made at Hawdenstank the xvi day of Marce and the xxvi day of October last passyt.

And gif ony ranfown be unrestorit at Fastingange Sondag forsaide, the withaldare, or the withaldars, sal be constreinyt, be the said Lords, to restore the ranfown, or the ranfowns, to the partize, and to pay the double to the Lords for thair disobeyffance.

Item, It is accordit and ordanyt, That all prisoners that has bene takyn on bath the partis fyn the xvi day of the month of Marce at last was, er and sal be quicly and frely deliverit with thair hors and yair harness, restorand the hermes that thai dyd in the tyme of thair takying qwen thai ressave thair hors and their harness.

And gyf ony be ranfown'd, and their ranfown pait party or al, that ranfowne sal be restorit to thaim befor Fastgang Sondag forsaide, in the payne of paying the double in the manere foresaid.

And al prisoners that are lattin to borgh, and al men that arr borrowis for payment of ranfowns,

shal be frely dischargit of payment, and of entre, withoutin reprof.

And al obligations, seurtes, and promesses, generalle or speciale, made for prissoners or ransons, and al othir chargs that is put to thaim be ony colour of band or borowe, because of thaire takyng, shal be voyde, and want thair strength and effect.

And wa fa dois agayne this ordenance, he shal be confreygnt be the saidz Lords, or their Commissairs, to pay the double to them of that that he ask.

Item, Forthy that commowne voiciis, on bathi the syds, that Scotis-men born refavyt to the fewte of Inglande, and dwelland on the marches of England, and Inglis-men borne, ressauyt to the fewte of Scotland, and dwelland on the march of Scotland, are principale caws of the distrowblance of the quiete of bathe the rewmez,

It is accordit and ordanyt, That fra hyn forwarde thare shal na Scots man be refavyt til the fewte of England, ne nane Inglis man til the fewte of Scotland, the qwils that the said Commissairs mak relation til bath thar Kyngs of this article ;

And thain, yf it lik to bath the Kyngs, this ordenance shal be kepit endurant the trewis ;

And that Scotis borne men that now ar ressauyt syn the begynnyng of the trewes til the fewte of England, shal be confreignyt to dwelle and mak residence als fer fra the marche as the bowis in England, before Candilmes next command ;

And



And all the Ingles-borne men reffavyt to the fewte of Scotland fyn the begynnyng of the faidz trewes, fal be constreignyit to dwelle and mak residence als fer fra the marches as Pebles, Crawford, or Corfnecon, be the famyn tyme ;

And gif ony of aither fyde be fundyn dwelland, command, or gangand, nerrer the marches thane the bownds forsaide, the officers of that contre that he beis fundyn in, fal be haldin be the vertue of thair othys and office, to tak hym or thaim swa brokand this ordennance, and to deliver hym or thaim to the wardanys of the marche of the partie advers to demayne at thair likyng.

And this ordennance is to be kepit at the likyng of the Kyngs as is forsaide.

Item, It is accordit, That al merchands and thaire guds, that has bene takin by fee or by lande fyn the begynnyng of the faid trewis, fal be frely deliverit, withouten obstacle on bath the partize, with all gudly hast, (that is to sa), tha that ar unassyth this day.

Item, For alsmeikl as thare has bene mony and gret attemptatz done fyn the begynnyng of their trewez, on bath the fyds, the qwilk ar unredressyt to this tyme, the reformation of the qwilk requers great laifere and tyme, the qwilk the faid Commissairs ne may nocht at this tyme, partic'larly ger be reformyt and amendit.

It is accordit and ordanyt, That the wardanys of the marches thr'w thaim self, or thr'w thair deputz, fal everilk moneth hald certene daiz of redresse,

redresse, and ger refourme and redrefs al attemptatz and mystakyngs that has bene adone agenez thir trewiz efter the tennour of the endenturs, made at Hawdenstank the xvi day of March last passyt.

And gyf it hapyns (as God forbede) that ony attemptate, or attemptats, bene unreformyt or unredressyt in defawte or necligence of the wardanys of the marchez, or thair deputz or owthir partie, the saidz Lords, or the sayd Commissairs, at their metyng at the est marche, shal tak knowlage and ger try in qwais defawte the attemptatz levys unreparit and unamendit, and shal punyfs hym or thaim that beis fond in defawtife in swilk manere, that it be ensawmple til al uther officers in tym to com : and this shal be done at the metyng of the Grete Lords, or thair Commissairs, befor al othir thing.

And for to mak clere knowyng to the Lords in qwais defaute the said redrefs levys unmade, it is accordit, that the wardanys, or thair deputz, shal endent at ilk day and place the manner of thair departyng.

Item, It is accordit and ordanyt, That for the mar siwirr kipyng of the trewis in tyme to come, that gyf any man of the ta rewme, (as takyng or slaghter of men, or takyng of guds, or brynnyng of howses, or taking of castel or fortrefs), the wardanys of the marche, yf he be within thair bownds fra thai be requerit, shal be haldin for to bryng the mysdoer, or mysdoers, to the knowlage

lage of the marches ; and qwa fa beis fundyn culpable of ony fylk trespas done in tyme to come, he or thai sal be deliverit to the party that has sustenyt the scath, to fla or ranfown at thair likyng, and castel and fortres swa takin, sal be deliverit ;

And gyf plaint be that ony silk mysdoer be withouten the bownds of the marche, the Conservatours, or their deputs, sal be haldin to do and fulfil in the manere forsaide of bath the partize ; purvait that heritages on bath the fyds stand in the fourme and vertue as is compris'd within the trewes.

Item, It is accordit and ordanit, That to the execution of the articles abovyn writtin, that the wardanys of the west marche of Scotland, or his deputs, sal mete at Clowthmabanestan for Galway, Nythysdale, and Annalerdendale, with the wardane of the west marche of England, or his deputs, the Thorysday the xvi day of November, for to redresse and refourme al attemptats done agayne the vertue of their trewis, efter the fourme of the saidz endenturs, and sa fra moneth to moneth, at daiz and places to be accordit betwix the saidz wardenez, or thair deputz, qwilez al attemptatz be fully redressyt, and at the same day and place thai of Cawfourd-mure sal appere to do, and mak redresse in the manere forsaide.

And in the semblable manere sal the saidz wardanes, or thair deputz, assemble at Kirkander the Mounownday the xviii day of this same moneth, for Elkdale and Lyddalydale.

And

And thai of Tyndale and Ryddyfdale fal mete at the same place of Kircander, with thai of the west marche of Scotland, at al thair daiz of redresse, fra Mychelmas to Qwyffinday, and fra Qwyffinday to Mychelmes, thair daiz of redresse fal behaldein at Crefshope bryg.

Item, It is accordit by the Commissairs forsaidd, That the deputes of the Erle of Douglas, Tevydale, and Jedeworth forest, fal assemble with the deputes of the wardane of the west marche of England, the                      day, the xxvi day of this moneth of November, at the said Crefshope bryg and fwa fra moneth to moneth, to refourme and redress al attemptats done on bath the fyds.

And the foresaid Commissairs of the Kyngs of of Scotlande has heythit, in their Kyngs name, that at the said day and place, and fa fra moneth to moneth, the forsaidd deputes of Tevydale and Jedeworth forest, fal appere, and do                      redress of al attemptats, after the fourme of the trewes and the saidz endenturs; and in the same wyse the Commissairs of England has heytht to be done on thair side.

Item, For alsmekil as the Commissairs of Scotland has allegyt, that deu reformation and redress of attemptatz has nocht ben done before this tyme; for that that on the party of England has bene grete changyng of wardanys on the west marche syn the tyme of this trewis, the qwilke wil nocht redress, but ilke man for his awyne tyme;

It is grantyt be the Commissairs of Ingland, that the lewtenant of the west marche of Ingland sal haf fuffizand poware, alswede of his legys Lord the Kyng of Ingland, as of the wardane of the said west marche, within twa moneths after this day, for to repair and redress all manere of attemptatz langand to his bownds, fyn the begynnyng of this trewes ;

And alswa that, be the same tyme, thair sal be ordanyt deputz of the Conservatours to mete at ilke day of redress, what the deputz of the wardanys to do, and fulfil that y to thair office withoutin the bownds of the marches.

Item, It is ordanyt and accordyt, That al manere of men of bath the rewms, sal haf fredome to folowe thair gudes that beis stollen or restit fra thaim, with hunde and horne, owt of the tawme into the toyir, at thair lyking, or in qwhat gudely manere that thaim lyfte, withoutin bowe and spere, and at na man be sa hardy to distroble ony man in syk folowyng, of payne of tyfale of lyfe and lyme.

Item, It is accordit, That al scathis that has bene recoverit before wardayns, or thair deputez, on aythir party, sal be pait and assyght by Fastyngang, Sonnonday forsaid.

Item, It is accordit and ordanyt, That na man, on nouthir syde, sal gyf ne tak tribute ne ranfowne for protections, ne assurances endurant this trewes ; but at ilk man sal lelyly kepe and ger kepe the Kyngs trewes without fraud and gyle.

In the witnefs of the qwilk things, the feele of Sire William of Borthwike, and the signet of Roger of Gordownz, for the party of Scotland, and the feel of Sire John Bufshy and Sire Henry Grene, and the signetz of Maiftre Willame Ferly and Lawrence Drewe, for the party of England, to the partize of this endenturs entrechangiabley are put, the day, yhere, and place forfaidz.

*Sub figillo, rubea cera expreffo, pendente  
a cauda pergamenæ. Alterum desidera-  
tur.*

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